

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Chambers, *et al.*

Application No. : 10/589,850

Filed : August 17, 2006

For : STRIP EJECTION SYSTEM

Examiner : WAGGONER, Timothy R

Art Unit : 3651

Confirmation No. : 3768

Docket No. : 0089500-003US0

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705

Dear Sir:

Pursuant to 37 CFR 1.705, reconsideration of the patent term adjustment indicated in Notice of Allowance is hereby requested for the above-referenced application by way of the application.

A Patent Term Adjustment of 410 days is indicated in Notice of Allowance dated July 7, 2010 in the application. Applicants respectfully submit that Applicants are entitled to a patent term adjustment of 481 days.

Summarized below are the relevant actions and dates thereof, dates as specified in §§ 1.703(a) and (b) for which an adjustment is sought, and dates as specified in §§ 1.704(a) and (b) in the application. A Patent Term Adjustment under §§ 1.703(c) through (e) and 1.704(c) through (d) are not applicable in the application.

Action	Date of Action (MM-DD-YY)	Patent Term Adjustment Base Rule 37 CFR	37 CFR 1.703 Dates		37 CFR 1.704 Dates		Patent Term Adjustment (days)
			Beginning date	Ending date	Beginning date	Ending date	
371(c) completion	08-17-06						
Mail Non-Final Rejection	01-27-09	1.702(a)(1)	10-18-07	01-27-09			468
Response to Non-final Rejection	05-27-09	1.704(b)			04-28-09	05-27-09	-30
Mail Final Rejection	07-29-09						
Response to Final Rejection	09-29-09						
RCE	10-28-09	1.702(b)(1)	08-18-09	10-27-09			71
Mail Non-Final Rejection	11-23-09						
Response after Non-Final Action	03-23-10	1.704(b)			02-24-10	03-23-10	-28
Total							481

Applicants respectfully submit that the 410-day patent term adjustment indicated in Notice of Allowance fails to take into consideration of the examination delay under 37 CFR 1.702(b)(1). 37 CFR 1.702(b)(1) recites:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

The period of adjustment of patent term due to examination delay under 37 CFR 1.702(b)(1) can be calculated according to 37 CFR 1.703(b)(1) which recites:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Accordingly, the period of adjustment of patent term due to examination delay under 37 CFR 1.702(b)(1) begins on August 18, 2009, the day after the date that is three years after August 17, 2006 on which the application was filed under the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, and ends on October 27, 2009, the day before October 28, 2009 when the Request for Continued Examination was filed. This period of adjustment of patent term due to examination delay under 37 CFR 1.702(b)(1) is 71 days. The patent term adjustment is 481 days.

A patent issued from the application is not subject to a terminal disclaimer.

In view of the foregoing, Applicants respectfully submit that the correct patent term adjustment is 481 days.

Applicants submit that the instant application for patent term adjustment under 37 CFR 1.705 is filed no later than the payment of the issue fee. The fee of \$200.00 set forth in 37 CFR 1.18(e) has been authorized via EFS to Deposit Account 04-0258. The Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account 04-0258.

Respectfully submitted,
Chambers *et al.*
DAVIS WRIGHT TREMAINE LLP

Date: September 3, 2010

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